

24 JAN 2007



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In re Application of
Myers et al
Application No.: 10/542,681
PCT No.: PCT/US2004/002890
Int. Filing Date: 03 February 2004
Priority Date: 05 February 2003
Attorney Docket No.: 43229A
For: RUBBER MODIFIED POLYMERS FROM
VINYL AROMATIC MONOMERS

: DECISION ON SECOND
: :
: RENEWED PETITION
: :
: UNDER 37 CFR 1.181

This decision is in response to the "SECOND RENEWED PETITION UNDER 37 CFR 1.181" filed 10 October 2006, requesting reconsideration of the decision mailed on 22 September 2006 in that a complete copy (4 pages) of the Declaration was purportedly filed in the USPTO on 19 July 2005.

BACKGROUND

In a decision from this Office on 22 September 2006 the petition filed on 01 August 2006 was dismissed because applicant's postcard was not accepted as *prima facie* evidence because the copy provided was not stamped by the USPTO.

On 10 October 2006, applicants filed the instant renewed petition. Applicants state that on or about August 28, 2006 they found the missing, date-stamped receipt confirmation postcard as it had been filed in the wrong case folder.

DISCUSSION

Applicants' present petition accompanied by a copy USPTO stamped postcard lists the following items:

- (1) Executed Declaration (4 pages)
- (2) PTO-1390 with Cover

The postcard lists the above items and bears a USPTO date of stamp as 19 July 2005.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicants' postcard is accepted as *prima facie* that an Executed Declaration was deposited with the U.S. Patent and Trademark Office on 19 July 2005.

Accordingly, the date of receipt for the Declaration is 19 July 2005.

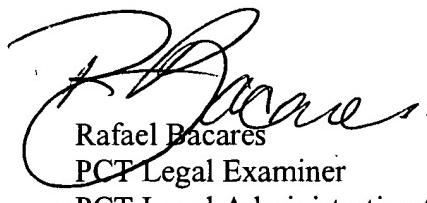
The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 24 July 2006 is VACATED with the mailing of this decision.

Applicants' will be refunded \$130.00 (the surcharge under 1.492(h) for late filing of the executed declaration) to applicants' Deposit Account No.: 04-1512 because the declaration was filed timely.

DECISION

The petition under 37 CFR 1.181 is **GRANTED**.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision. The 35 U.S.C. § 371(c)(1), (c)(2), and (c)(4) date is **19 July 2005**.



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